

**AMENDMENT AND PETITION FOR ONE
MONTH EXTENSION OF TIME
Patent Application Serial No. 09/698,558
Reply to Office Action Mailed July 29, 2003
Art Unit: 3725**

Attorney Docket No.: Case 6103

REMARKS

The Examiner's Office Action mailed July 29, 2003 has been carefully reviewed. Reconsideration of this application, in view of the above amendments and the following remarks, is respectfully requested. Claim 6 has been canceled. As such, claims 1 – 5 and 7 – 23 are in the case and presented for consideration.

The specification has been amended to correct typographical errors, and minor grammatical omissions. No new matter has been added to the specification.

Fig. 4 of the drawings has been amended to delete a superfluous lead line.

Applicants gratefully acknowledge the Examiner's indication of the allowability of original claims 6 and 7.

Independent claims 1, 11, 18 and 21 have been amended to include the allowable subject matter of original claim 6. Claim 7 has been amended to depend from amended claim 1. Claims 1 and 11 were further amended to clarify the phrase "the top grinding ring casting" and thereby eliminate the need for an antecedent basis.

Claims 2, 5, 8, 9, 10, 12, 13, 14, 18, 19, 21, 22 and 23 have been amended to delete redundant language. Claims 8, 9, 15, 16, 19, 20, 22 and 23 have been amended to write out the symbol "''" as -- inches -- to add clarity to the claims and make them consistent with the "inches" expression used in claim 17.

The Examiner has objected to the disclosure because of the informality at page 8, line 13 wherein -- an outer -- is misspelled. As noted above, this typographical error in the specification has been corrected.

The Examiner has rejected claims 1 – 17 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner stated that there is no

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proper antecedent basis for "the top grinding ring casting" in claim 1, line 2 and claim 11, line 4. As noted above, claims 1 and 11 were amended to clarify the phrase "the top grinding ring casting" and thereby eliminate the need for an antecedent basis.

The Examiner has rejected claims 18 and 21 under 35 U.S.C. §102(b) as being anticipated by Ebersole (U.S. Patent No. 2,389,844). Figure 1 [of Ebersole] is said, by the Examiner, to inherently show an EL pulverizer in which the grinding track on both upper and lower rings is greater than 29% of the ball circumference.

Claims 18 and 21 have been amended to include the allowable subject matter of original claim 6, and are, now, believed to be in condition for allowance.

The Examiner has rejected claims 19, 20, 22, and 23 under 35 U.S.C. §103(a) as being unpatentable over Ebersole. The remaining limitations of these claims are said, by the Examiner, to have been obvious design choices only, once the basic apparatus was known.

Claims 19 and 20 are dependent on amended claim 18, and claims 22 and 23 are dependent on amended claim 21 and are, thus, believed to be in condition for allowance since claims 18 and 21 have been amended to include the allowable subject matter of original claim 6.

The Examiner has rejected claims 1 – 4, and 8 – 13 under 35 U.S.C. §103(a) as being unpatentable over the admitted prior art (APA). The APA is said, by the Examiner, to be the apparatus and its problems discussed in the first few pages of the specification. This is further said to include an EL pulverizer having snubbers fastened to the top grinding ring. Fastening of the snubbers to the ring is also said to be difficult due to the material used for these elements. However, the Examiner contends that according to the decision in *In re [Boesch]* 24 O.G. 916, the making of known parts integral instead of fastening them together does not amount to invention. The Examiner goes on to state that it would have

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been obvious for one of ordinary skill in the art, at the time of the invention, to make these parts integral in order to prevent fastening problems, since making parts integral does not amount to patentable subject matter. The remaining limitations of these claims are said, by the Examiner, to have been obvious design choices only, once the apparatus was known.

Claim 1 has been amended to include the allowable subject matter of original claim 6, and is believed to be in condition for allowance along with claims 2, 3, 4, 8, 9, and 10 which depend from amended claim 1.

Claim 11 has been amended to include the allowable subject matter of original claim 6, and is believed to be in condition for allowance along with claims 12 and 13 which depend from amended claim 11.

The Examiner has rejected claims 5, and 14 – 17 under 35 U.S.C. §103(a) as being unpatentable over the APA as applied to claim 1 above, and further in view of Ebersole. The Examiner notes that it is not clear what the ball dimensions are in the APA. It is said, by the Examiner, that Figure 1 of Ebersole inherently shows an EL pulverizer in which the grinding track on both upper and lower rings is greater than 29% of the ball circumference. The Examiner states that, thus, it would have been obvious for one of ordinary skill in the art to modify the APA by having the upper and lower tracks greater than 29% of the ball circumference, taught to be desirable by Ebersole.

Claim 5 depends from claim 1 which, as noted above, has been amended to include the allowable subject matter of original claim 6. Thus, claim 5 is now believed to be in condition for allowance.

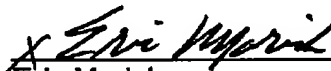
Claims 14, 15, 16, and 17 depend from claim 11 which, as noted above, has been amended to include the allowable subject matter of the original claim 6. Thus, claims 14, 15, 16, and 17 are now believed to be in condition for allowance.


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Accordingly, Applicants respectfully submit that claims 1 – 5 and 7 – 23, as presented, are believed to be in condition for allowance.

Applicants have endeavored to make the foregoing response sufficiently complete to permit prompt, favorable action on the subject patent application. In the event that the Examiner believes, after consideration of this response, that the prosecution of the subject patent application would be expedited by an interview with an authorized representative of the applicants, the Examiner is invited to contact the undersigned at (330) 860-6605.

Respectfully submitted,


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